

EX PARTE OR LATE FILED

RECEIVED

OCT 27 1995

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Amendment of Part 90 of the  
Commission's Rules to Facilitate  
Future Development of SMR Systems  
in the 800 MHz Frequency Band

PR Docket No. 93-144

DOCKET FILE COPY ORIGINAL

and

Implementation of Section 309(j)  
of the Communications Act -  
Competitive Bidding  
800 MHz SMR

PP Docket No. 93-253

To: The Commission

**EX PARTE FILING**

A & W Communications, Inc., Mobile Relay Associates, Inc., Anderson Communications, Radio Communications Company of Cary, Inc., Bill Wayne d/b/a Mr. Radio and Atlantic Communications, Inc. (collectively the "SMR Operators 2"), through counsel, hereby respectfully file this Ex Parte communication in response to the invitation of the Federal Communications Commission in the above-captioned proceeding.<sup>1</sup>

**I. BACKGROUND**

At a meeting held at the FCC on September 18, 1995, the Wireless Telecommunications Bureau presented to representatives of the SMR industry the Commission's current vision of a Report and Order and Further Notice of Proposed Rule Making in the 800 MHz licensing proceeding. At that time, the Commission invited further

---

<sup>1</sup>Public Notice Report No. WT 95-23, DA 95-1965, released September 12, 1995.

industry Comment by September 29, 1995 on the current version of the proposed rules.

The SMR Operators are the licensees and/or managers of 800 MHz SMR facilities in various parts of the country. Each operator listed above has participated in earlier stages of this proceeding. Each operator has attempted to work diligently through the Commission's processes to reach a satisfactory outcome in this proceeding.

## II. COMMENTS

The SMR Operators are concerned that the Commission's proposed plan virtually ignores the many comments of independent SMR operators over the past year. In fact, the only changes to the Commission's original plan is to use BEAs instead of MTAs (which is an appropriate change) and to permit mandatory relocation (which the Commission initially declined to do).

It is troubling that the Commission apparently continues to view this transition as simple. As recently as last week, representatives of the Commission stated that it was simple to retune a mobile unit. The SMR Operators suggest that Commission closely review the previous Comments of the Personal Communications Industry Association ("PCIA") to learn that the technical aspects of this plan are anything but simple. Rather, the intricacies of moving these operations are much more intense than the movement of microwave licensees in the PCS proceeding.

It continues to be the opinion of the SMR Operators that the Commission is without authority to auction this spectrum. Further,

it is inconceivable that the Ccmmission wants to relocate long time business operators to auction the spectrum to their **competitors**. However, in recognition of the Commission's representation that these issues are not open to discussion the SMR Operators continue to try to find means to reach agreement on the best relocation plan possible, while preserving their rights to continue their opposition to the Commission's core decisions on auctions and mandatory relocation.

In this light, the SMR Operators have reviewed the draft Ex Parte Comments of PCIA. The SMR Operators agree that PCIA's views of incumbent rights, cost recovery and opportunities for independent SMR operators must be included in any plan adopted by the Commission.

### III. CONCLUSION

For the foregoing reasons, Mobile Relay Associates, Inc., Anderson Communications, Radio Communications Company of Cary, Inc., Bill Wayne d/b/a Mr. Radio, A & W Communications, Inc. and Atlantic Communications, Inc. urge the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

MOBILE RELAY ASSOCIATES, INC.  
ATLANTIC COMMUNICATIONS, INC.  
A & W COMMUNICATIONS, INC.  
BILL WAYNE D/B/A MR. RADIO  
RADIO COMMUNICATIONS OF CARY, INC.  
ANDERSON COMMUNICATIONS

By: Alan S. Tilles

Alan S. Tilles, Esquire  
Meyer, Faller, Weisman and  
Rosenberg, P.C.  
4400 Jenifer Street, N.W.  
Suite 380  
Washington, D.C. 20015  
(202) 362-1100

Their Attorney

Date: October 2, 1995